

JFW



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/680,358	10/07/2003	Frank J Schwab	4002-3426/PC819.00

DEC 13 2004  
 O I P E  
 PATENT & TRADEMARK OFFICE  
 Woodard, Emhardt, Moriarty  
 McNett & Henry LLP  
 Bank One Center/Tower, Suite 3700  
 111 Monument Circle  
 Indianapolis, IN 46204-5137

CONFIRMATION NO. 5654  
 FORMALITIES LETTER  
 \*OC000000014376060\*  
 \*OC000000014376060\*

Date Mailed: 11/16/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

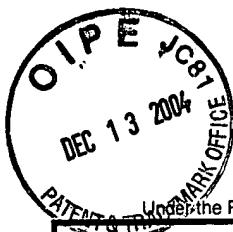
- The oath or declaration is unsigned.

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

2 - MOGUES

Customer Service Center  
 Initial Patent Examination Division (703) 308-1202  
 PART 2 - COPY TO BE RETURNED WITH RESPONSE



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004002-003426.DAC.316706

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/680,358
		Filing Date	October 7, 2003
		First Named Inventor	Frank J. Schwab
		Art Unit	3732
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	4002-3426/PC819.00

### ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawings <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="text" value=""/>	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <input checked="" type="checkbox"/> Copies of 1/7/2004 filing (Response to Missing Parts).
<div style="border: 1px solid black; padding: 2px;">Remarks</div>		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or individual name	Douglas A. Collier, #43,556 Woodard, Emhardt, Moriarty, McNelly & Henry LLP
Signature	
Date	December 9, 2004

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below

Typed or printed name	Douglas A. Collier
Signature	
Date	December 9, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



004002-003426.DAC.316684

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent )  
application of: ) Before the Examiner  
 )  
Frank J. Schwab et al. )  
 )  
Serial No. 10/680,358 )  
 ) Group Art Unit 3732  
Filed October 7, 2003 )  
 )  
INSERTION DEVICE AND ) AttyDocket No. 4002-3426/PC819.00  
TECHNIQUES FOR ORTHOPAEDIC )  
IMPLANTS ) December 9, 2004

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A Notice to File Missing Parts of Application was mailed by the Patent Office for the above-identified application on Nov. 16, 2004. A first Notice to File Missing Parts was also mailed by the Patent Office for this application on January 2, 2004. Applicants submitted a response to this first Notice on January 7, 2004, a copy of which is enclosed along with the return postcard indicating receipt of the same by the Patent Office mailroom. It is believed the response mailed on January 7 was timely submitted and a complete response to the first Notice, and entry of the same is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 9, 2004.

Douglas A. Collier  
Name of Registered Representative

Signature  
Dec. 9, 2004  
Date of Signature

Furthermore, entry of each of the attorney names listed on the Power of Attorney form is requested since such entry would have been made had the January 7, 2004, response been timely considered by the Patent Office. A filing receipt indicating entry of the same along with receipt of the missing parts is respectfully requested.

Since the January 7, 2004, response was certified with a Certificate of Mailing indicating that it was deposited on that date in first class mail to the Patent Office, no fees for responding to the second Notice of Missing Parts are enclosed herewith. Should any extensions of time be necessary or fees be due for consideration of this response, please provide the same and any charges to Deposit Account 23-303, but not including the payment of issue fees. Part 2 of the second Notice to be returned with the response is enclosed herewith.

The examiner is encouraged to contact the undersigned should there be any questions or if additional information is needed.

Respectfully submitted

By: 

Douglas A. Collier  
Reg. No. 43,556  
Woodard, Emhardt, Moriarty,  
McNett & Henry LLP  
Bank One Center/Tower  
111 Monument Circle, Suite 3700  
Indianapolis, Indiana 46204-5137  
(317) 634-3456



004002-003426.DAC.258830  
Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/680,358
		Filing Date	October 7, 2003
		First Named Inventor	Frank J. Schwab
		Art Unit	3732
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	4002-3426/PC819.00

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Remarks <input type="text" value=""/>		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or individual name	Douglas A. Collier Woodard, Emhardt, Moriarty McNelly & Henry LLP		
Signature			
Date	January 7, 2004		

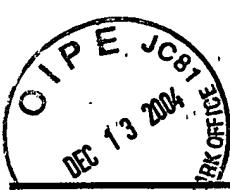
### CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Douglas A. Collier	Date	January 7, 2004
Signature			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including the gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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004002-003426.DAC.258831

Approved for use through 10/31/2002. OMB 0651-0032  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

# FEE TRANSMITTAL FOR FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

Total Amount of Payment (\$170.00)

Examiner Name

Attorney Docket Number 4002-3426/PC819.00

## METHOD OF PAYMENT

## FEE CALCULATION (continued)

Check  Credit card  Money Order  Other  None

### Deposit Account:

Deposit Account Number 23-3030

Deposit Account Name Woodard, Emhardt, Moriarty, McNett & Henry LLP

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility Filing Fee	
1002	340	2002	170	Design Filing Fee	
1003	530	2003	265	Plant Filing Fee	
1004	770	2004	385	Reissue Filing Fee	
1005	160	2005	80	Provisional Filing Fee	
SUBTOTAL (1) (\$)					

### 2. EXTRA CLAIM FEES

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee From Below	Fee Paid
			-20** =	X	=
			-3** =	X	=

Large Entity		Small Entity	
Fee Code	Fee (\$)	Fee Code	Fee (\$)
1202	18	2202	9
1201	86	2201	43
1203	290	2203	145
1204	86	2204	43
1205	18	2205	9
SUBTOTAL (2) (\$)		Claims in excess of 20	

\*\*or number previously paid, if greater; For Reissues, see above

### 3. ADDITIONAL FEES

#### Large Entity

#### Small Entity

#### Fee Description

#### Fee Paid

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	130
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner's Action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner's Action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other Fee (specify)					
* Reduced by Basic Filing Fee Paid				SUBTOTAL (3) (\$ 170)	

### SUBMITTED BY

Name (Print/Type)	Signature	Complete (if applicable)
Douglas A. Collier	Douglas A. Collier	Registration No. (Attorney/Agent) 43,556
		Telephone (317) 634-3456

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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004692-003426.DAC.258829

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent )  
application of: ) Before the Examiner  
 )  
Frank J. Schwab et al. )  
 )  
Serial No. 10/680,358 )  
 ) Group Art Unit 3732  
Filed October 7, 2003 )  
 )  
INSERTION DEVICE AND TECHNIQUES )  
FOR ORTHOPAEDIC IMPLANTS ) January 7, 2004

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

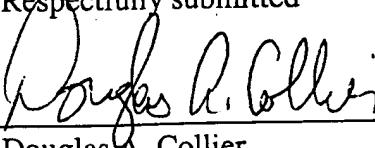
In response to the Notice to File Missing Parts of Application—Filing Date

Granted of October 7, 2003, please file the following executed documents:

- (1) Declaration for Utility or Design Patent Application;
- (2) Copy of the Notification of Parts of Nonprovisional Application;
- (4) Check for the surcharge of \$130.00; and
- (5) Assignment and Assignment Recordation Fee.

It is believed the application is now in condition for examination and such action by the Examiner is respectfully requested.

Respectfully submitted

By: 

Douglas A. Collier

Reg. No. 43,556

Woodard, Emhardt, Moriarty,

McNett & Henry LLP

Bank One Center/Tower

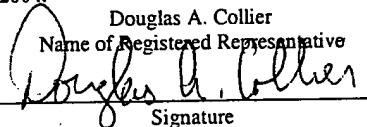
111 Monument Circle, Suite 3700

Indianapolis, Indiana 46204-5137

(317) 634-3456

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Douglas A. Collier  
Name of Registered Representative

  
Signature

Jan. 7, 2004

Date of Signature